

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

BRIGITTE FAYE REYNOLDS,

Defendant-Appellant.

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UNPUBLISHED

April 19, 2012

No. 303359

Alpena Circuit Court

LC Nos. 10-003708-FH;

10-003709-FH;

10-003710-FH;

10-003711-FH

Before: HOEKSTRA, P.J., and SAWYER and SAAD, JJ.

PER CURIAM.

Defendant was convicted of four counts of second-degree home invasion, MCL 750.110a(3). Defendant now appeals as of right, arguing the trial court improperly joined the charges in a single trial. We affirm.

The charges brought against defendant stemmed from four separate home invasions in Alpena County. Two were of the residences of Rosemary Trelfa and Bernice Kowalski, and two were of what are described in the evidence as hunting camps. It was alleged that defendant entered these dwellings between August 4, 2010, and September 15, 2010. Defendant admitted to police her involvement in three of the crimes, although she disputed whether she or someone else had taken some of the missing property from the Kowalski residence.

Whether joinder of charges was proper is a mixed question of fact and law subject to both a clear error and de novo review. *People v Williams*, 483 Mich 226, 231; 769 NW2d 605 (2009).

The joinder of multiple criminal charges is allowable under Michigan law in circumstances prescribed by MCR 6.120, which reads as follows:

(A) The prosecuting attorney may file an information or indictment that charges a single defendant with any two or more offenses. Each offense must be stated in a separate count. Two or more informations or indictments against a single defendant may be consolidated for a single trial.

(B) On its own initiative, the motion of a party, or the stipulation of all parties, except as provided in subrule (C), the court may join offenses charged in two or more informations or indictments against a single defendant, or sever offenses charged in a single information or indictment against a single defendant,

when appropriate to promote fairness to the parties and a fair determination of the defendant's guilt or innocence of each offense.

(1) Joinder is appropriate if the offenses are related. For purposes of this rule, offenses are related if they are based on

(a) the same conduct or transaction, or

(b) a series of connected acts, or

(c) a series of acts constituting parts of a single scheme or plan.

(2) Other relevant factors include the timeliness of the motion, the drain on the parties' resources, the potential for confusion or prejudice stemming from either the number of charges or the complexity or nature of the evidence, the potential for harassment, the convenience of witnesses, and the parties' readiness for trial.

(3) If the court acts on its own initiative, it must provide the parties an opportunity to be heard.

(C) On the defendant's motion, the court must sever for separate trials offenses that are not related as defined in subrule (B)(1).

The record supports the court's conclusion that the break-ins constituted "a series of connected acts." All occurred in Alpena County within a roughly one-and-a-half-month timeframe. Regarding the Trelfa and Kowalski residences, the break-ins occurred after defendant had approached and talked to the homeowners at the residences. Jewelry and gift cards stolen from the homes were later recovered from defendant's apartment. Further, defendant's Ford Explorer was linked to the break-ins of the two hunting camps.

Additionally, the potential for confusion or prejudice was limited when the trial judge clearly instructed the jury that the fact that defendant stood charged of "a number of crimes . . . is not evidence." The court also instructed the jury to "consider each crime separately . . . . You may find the Defendant guilty of all, or any one, or any combination of these crimes, or not guilty of all, or any combination." See *People v Graves*, 458 Mich 476, 486; 581 NW2d 229 (1998) ("It is well established that jurors are presumed to follow their instructions."). Further, no claim is made that defendant's counsel was unprepared for trial as a result of the joinder.

We also note that joining the charges into one trial saved both defendant and plaintiff the expense of proceeding with four separate jury trials involving much if not all of the same testimony.

Affirmed.

/s/ Joel P. Hoekstra  
/s/ David H. Sawyer  
/s/ Henry William Saad